

ENTERED

February 10, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**INVECTYS INC., *et al.*,*Plaintiffs,*

VS.

NKILT THERAPEUTICS, INC., *et al.*,*Defendants.*§
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CIVIL ACTION NO. 4:23-cv-4436

ORDER

Pending before this Court is NKILT Therapeutics, Inc., SWH Consulting, SASU, and Simon Wain-Hobson's (collectively, "Defendants") Partial Motion to Dismiss Count III Pursuant to Rule 12(b)(1) and Rule 12(b)(6). (Doc. No. 15). In it, Defendants argue that Count III in Invectys Inc. and Invectys USA Inc.'s (collectively, "Plaintiffs") Complaint—seeking correction of inventorship under 35 U.S.C. § 256 of Plaintiff's patent application—should be dismissed because § 256 provides a private right of action to challenge inventorship only after a patent issues. (*Id.* at 5).

In response, Plaintiffs have filed a First Amended Complaint. (Doc. No. 17). In it, Plaintiffs "voluntarily dismiss[] without prejudice the claim of Correction of Inventorship under 35 U.S.C. § 256," though they note that the dismissal "does not indicate [Plaintiffs'] endorsement of any of Defendants' legal or factual assertions made in the Motion to Dismiss." (*Id.* at 35). As such, Defendants' Motion to Dismiss is now moot and thus **DENIED without prejudice**. (Doc. No. 15).

Signed on this 10th day of February 2025.



Andrew S. Hanen
United States District Judge